

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:03CR183 RWS
)	
STEVEN LESLIE WATERS,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before me on Steven Waters's motion to modify sentence under 18 U.S.C. § 3582 [#54]. The motion is without any basis in law or fact and will be denied.

On July 24, 2003, I sentenced Waters to a sixty-four (64) month term of imprisonment and a three (3) year term of supervised release. In his motion, Waters alleges that I erred and sentenced him outside of the applicable guideline range. Waters states that his applicable guideline range was fifty-seven (57) to seventy-one (71) months. He argues that a his term of imprisonment and his term of supervised release should be counted together, and that counted together they should add up to more no that seventy-one (71) months.

Waters is incorrect. The guideline range of fifty-seven (57) to seventy-one (71) months goes to imprisonment only. A subsequent term of supervised release is not included in calculating the time for a term of imprisonment. E.g., United States v. Watkins, 14 F.3d 414, 415 (8th Cir. 1994). As a result, the motion will be denied.

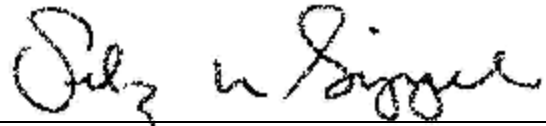
Additionally, Waters has waived his right to bring this motion. Under the terms of his plea agreement, Waters agreed to "waive all rights to appeal all non-jurisdictional issues including . . . whatever sentence is imposed . . ." And he agreed to "waive all rights to contest the conviction

or sentence in any post-conviction proceeding . . .” As a result, the motion will be denied.

Accordingly,

IT IS HEREBY ORDERED that Steven Waters’s motion to modify sentence under 18 U.S.C. § 3582 [#54] is **DENIED**.

Dated this 26th Day of September, 2005.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE